

REMARKS

Claims 1-54 are pending. Claim 9 has been amended. Reconsideration is respectfully requested.

1. Rejection of Claim 14 Under § 112

Claim 14 stands rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite. Specifically, the Examiner states it is unclear how the recess sidewall second portion can extend across a center portion of the top wall if it is downwardly depending. The Applicants respond that Figs. 1 and 3A illustrate a downwardly extending recess sidewall 50 that also extends (laterally) across a center portion of the top wall. Thus, the Applicants respectfully submit that claim 14 is not indefinite.

2. Rejection of Claims 1, 6-8, 28-30 and 32 Under § 102(e)

Claims 1, 6-8, 28-30 and 32 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,431,390 (Waller).

The Applicants previously argued that while Waller does teach drinking openings 20 formed in the side of the groove 60, such drinking openings are formed only on a single sidewall of the groove 60, and thus are not formed in a sidewall structure and positioned in an opposing manner, as recited in claims 1 and 28. The Applicants also traversed the Examiner's position that "opposing" reads on the openings of Waller "as the openings are disposed along a curved surface, therefore, they oppose each other", because such an interpretation is inconsistent with the plain meaning of the term "opposing".

The Examiner responds to the Applicants' arguments on pages 4-5 of the Final Office Action, quoting one of the definitions of "opposite" as "facing the other way, moving or tending away from each other: *opposite directions*", and then concluding that the apertures formed on opposite ends of a curved sidewall extend in "opposite directions" from an imaginary bisecting line (that divides the sidewall in two equal portions), and thus such apertures oppose each other. Under this reasoning, any apertures formed in any structure, even on a flat planar surface, would be positioned in an "opposing manner" simply because an imaginary line can always be defined

to bisect any structure. It is respectfully submitted that there is no support for using bisecting lines to define “opposing” positioning, and such reasoning ignores and renders meaningless the ordinary and customary meaning of “oppose” (“to place so as to be opposite something else”) and “opposite” (“placed or located directly across from something else or from each other”). *The American Heritage Dictionary of the English Language*, Fourth Edition, 2000. It is respectfully submitted that the drinking openings 20 in Waller are not placed *directly across* from each other, and do not face, move or tend away from each other *in opposite directions*, and thus simply cannot reasonably be deemed as being “positioned in an opposing manner” as recited in claims 1 and 28.

The Examiner also states that placement of apertures on a curved surface in a manner not diametrically opposed to each other still implies some level of opposition between apertures. Again, the Applicants respectfully disagree. The degree of curvature of the Waller sidewall in which the drinking openings are formed is relatively small, and the Applicants respectfully submit that the apertures formed therein cannot be reasonably deemed to be directly across each other. As an example, New York City and Washington D.C. are both located on the curved surface of the earth, yet the Applicants respectfully submit that they cannot reasonably be considered as being positioned thereon in an “opposing manner”.

For the foregoing reasons, the Applicants respectfully submit that claims 1 and 28 (and claims 6-8, 29-30 and 32 dependent thereon), are not anticipated by Waller.

3. Allowable Subject Matter

The Applicants gratefully acknowledge the allowance of claims 2-5, 12, 17, 20-23, 31 and 33-54, and the indication that claims 9-11, 13, 15-16, 18-19 and 24-27 would be allowable if rewritten into independent form.

Claim 9 has been amended into independent form, including all the limitations of the base claim 1. Claims 10-11 and 13 depend from claim 9.

Claims 15-16, 18-19 and 24-27 depend from claim 14, which was only rejected under § 112. The Applicants believe claim 14 is allowable under § 112 for the reasons set forth above

in Part 1, and therefore claims 15-16, 18-19 and 24-27 are deemed allowable without amendment into independent form.

For the foregoing reasons, it is respectfully submitted that the claims are in an allowable form, and action to that end is respectfully requested.

Respectfully submitted,

GRAY CARY WARE & FREIDENRICH

Dated: May 15, 2003

By: 

Alan A. Limbach
Reg. No. 39,749

Attorneys for Applicant(s)

TELEPHONE: (650) 833-2433 (direct line)
TELECOPY: (650) 320-7401



Need a glossary of your company to put everyone on the same page?

yourDictionary Lexilists

TYPE IN YOUR WORD & CLICK GO!

Dictionary

GO

Now you can have our dictionary on your computer!

[Click Here for the Pronunciation Key](#)

op·pose

([click to hear the word](#)) (ə-pōz')

v. op·posed, op·pos·ing, op·pos·es

v. tr.

1. To be in contention or conflict with: *oppose the enemy force.*
2. To be resistant to: *opposes new ideas.*
3. To place opposite in contrast or counterbalance.
4. To place so as to be opposite something else.

v. intr.

To act or be in opposition.

Idiom:

as opposed to

In contrast to: "*a Baroque violin that ... uses gut strings as opposed to metal-wound ones*" (William Zagorski).

[Middle English *opposen*, *to question, interrogate*, from Old French *opposer*, alteration (influenced by *poser*, *to place*), of Latin *oppōnere*, *to oppose* (*ob-*, *against*; see *ob-* + *pōnere*, *to put*; see *apo-* in Indo-European roots).]

op·pos'er n.

Synonyms: *oppose, fight, combat, resist, withstand,*


contest

These verbs mean to set someone or something in opposition to another: *Oppose* has the widest application: *opposed the building of a nuclear power plant. "The idea is inconsistent with our constitutional theory and has been stubbornly opposed ... since the early days of the Republic" (E.B. White).* *Fight* and *combat* suggest vigor and aggressiveness: *"All my life I have fought against prejudice and intolerance" (Harry S. Truman).* *"We are not afraid ... to tolerate any error so long as reason is left free to combat it" (Thomas Jefferson).* To *resist* is to strive to fend off or offset the actions, effects, or force of: *"Pardon was freely extended to all who had resisted the invasion" (John R. Green).* *Withstand* often implies successful resistance: *"Neither the southern provinces, nor Sicily, could have withstood his power" (Henry Hallam).* To *contest* is to call something into question and take an active stand against it: *contested her neighbor's claims to her property in court.*

▲ BACK TO TOP

The American Heritage® Dictionary of the English Language, Fourth Edition. Copyright © 2000 by Houghton Mifflin Company. Published by the Houghton Mifflin Company. All rights reserved.


© 1996-2002 yourDictionary.com, Inc. All Rights Reserved.



yourDictionary.com™

Home

Dictionary Results



WORLD
LANGUAGE
RESOURCES

TYPE IN YOUR WORD & CLICK GO!

Dictionary

GO

Now you can have our dictionary on your computer!

[Click Here for the Pronunciation Key](#)

op·po·site

(click to hear the word) (ŏp'ə-zīt)

adj.

1. Placed or located directly across from something else or from each other: *opposite sides of a building.*
2. Facing the other way; moving or tending away from each other: *opposite directions.*
3. Being the other of two complementary or mutually exclusive things: *the opposite sex; an opposite role to the lead in the play.*
4.
 - a. Altogether different, as in nature, quality, or significance: *The effect of the medication was opposite to that intended.*
 - b. Sharply contrasting; antithetical: *had opposite views on the subject.*
5. *Botany* Growing in pairs on either side of a stem: *opposite leaves.*

n.

1. One that is opposite or contrary to another.
2. An opponent or antagonist.
3. An antonym.

adv.

In an opposite position: *They sat opposite at the table.*

prep.

1. Across from or facing: *parked the car opposite the bank.*

2. In a complementary dramatic role to: *He played opposite her.*

[Middle English, from Old French, from Latin *oppositus*, past participle of *oppōnere*, *oppose* ; see *ppos* .]

op'po-site-ly *adv.*

op'po-site-ness *n.*

Synonyms: *opposite, contrary, antithetical, contradictory*
These adjectives mean marked by a natural or innate and irreconcilable opposition. Two things that are altogether different are *opposite*: *Antonyms are words of opposite meaning. "It is said that opposite characters make a union happiest" (Charles Reade).* *Contrary* stresses extreme divergence: *Democrats and Republicans often hold contrary opinions.* *Antithetical* emphasizes diametrical opposition: *engaged in practices entirely antithetical to their professed beliefs.* *Contradictory* implies denial or inconsistency: *"contradictory attributes of unjust justice and loving vindictiveness" (John Morley).*

▲ **BACK TO TOP**

The American Heritage® Dictionary of the English Language, Fourth Edition. Copyright © 2000 by Houghton Mifflin Company. Published by the Houghton Mifflin Company. All rights reserved.

© 1996-2002 yourDictionary.com, Inc. All Rights Reserved.